

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #4	CCRB Case #: 201807856	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/18/2018 9:30 PM	Location of Incident: Front of 1060 Union Street	Precinct: 71	18 Mo. SOL 3/18/2020	EO SOL 3/18/2020	
Date/Time CV Reported Fri, 09/21/2018 4:42 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/21/2018 4:42 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Sidorskiy	14429	931988	PBBS SU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eric Cavallo	08649	957439	PBBS SU

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Sidorskiy	Abuse: Police Officer Michael Sidorskiy threatened to arrest § 87(2)(b)	
B.POM Michael Sidorskiy	Abuse: Police Officer Michael Sidorskiy threatened to arrest § 87(2)(b)	
C.POM Michael Sidorskiy	Abuse: Police Officer Michael Sidorskiy threatened to arrest § 87(2)(b)	
D.POM Michael Sidorskiy	Abuse: Police Officer Michael Sidorskiy searched the vehicle in which § 87(2)(b) was an occupant.	

### Case Summary

On September 21, 2018, § 87(2)(b) contacted the CCRB by phone and filed this complaint on his own behalf and on behalf of his friends, § 87(2)(b) and § 87(2)(b).

On September 18, 2018, at approximately 9:30 p.m., § 87(2)(b) the operator of the vehicle, § 87(2)(b) and § 87(2)(b) were driving home from a car auction that took place in Connecticut. They were pulled over by two officers, PO Michael Sidorskiy and PO Eric Cavallo of the Patrol Borough Brooklyn South Specialized Unit, in front of 1060 Union Street in Brooklyn. § 87(2)(b) and § 87(2)(b) exited the car, but PO Sidorskiy instructed them to return inside and asked § 87(2)(b) for his driver's license. § 87(2)(b) asked PO Sidorskiy to explain why he was pulled over. In response, PO Sidorskiy told § 87(2)(b) that he could be arrested for not providing his driver's license (**Abuse of Authority: Allegation A**, § 87(2)(g) § 87(2)(b) intervened and questioned PO Sidorskiy about the validity of the vehicle stop. PO Sidorskiy said to § 87(2)(b) "We can do this in the bookings or in jail," and to § 87(2)(b) "Do you want to do it in the bookings or in jail?" (**Abuse of Authority: Allegations B and C**, § 87(2)(g) § 87(2)(b). Later, PO Sidorskiy searched § 87(2)(b) vehicle (**Abuse of Authority: Allegation D**, § 87(2)(g) § 87(2)(b).

As a result of this incident, PO Sidorskiy issued § 87(2)(b) three summonses: one for misuse of dealer plates (BR 04), one for unregistered vehicle (BR 05), and one for disorderly conduct (BR 06).

§ 87(2)(b) provided the investigation with a brief video of this incident that he recorded on his cell phone. The full video is located in and can be viewed from Investigative Action #39. The Snagit clip of this video is located in and can be viewed from the Investigative Action # 71 (BR 07).

### Findings and Recommendations

#### **Allegation (A) Abuse of Authority: Police Officer Michael Sidorskiy threatened to arrest**

§ 87(2)(b)

#### **Allegation (B) Abuse of Authority: Police Officer Michael Sidorskiy threatened to arrest**

§ 87(2)(b)

#### **Allegation (C) Abuse of Authority: Police Officer Michael Sidorskiy threatened to arrest**

§ 87(2)(b)

It is undisputed that PO Sidorskiy told § 87(2)(b) that he could be arrested for failure to provide his driver's license. § 87(2)(b), § 87(2)(g)

The investigation has established the following facts. On September 18, 2018, at approximately 9:30 p.m., § 87(2)(b) (BR 02), § 87(2)(b) (BR 03), and § 87(2)(b) (BR 01) were pulled over by PO Sidorskiy and PO Cavallo in front of 1060 Union Street in Brooklyn. During this incident, § 87(2)(b) was driving his 2004 Toyota 4Runner with Florida transporter dealer plates.

After being pulled over, § 87(2)(b) and § 87(2)(b) exited the car, but PO Sidorskiy ordered them to get back inside and then asked § 87(2)(b) to provide his driver's license. § 87(2)(b) asked PO Sidorskiy why he was pulled over. PO Sidorskiy ignored § 87(2)(b) question and told him that he could be arrested for not providing his driver's license. § 87(2)(b) then told PO Sidorskiy that his driver's license was in the backpack in the trunk of his car.

and asked if he could retrieve it. Eventually, § 87(2)(b) found his driver's license in the car's cup holder and provided it to PO Sidorskiy.

§ 87(2)(b) did not make any statements about PO Sidorskiy threatening to arrest him at any later point or that he threatened to arrest § 87(2)(b)

§ 87(2)(b), § 87(2)(g) but did not allege that PO Sidorskiy told § 87(2)(b) that he could be arrested for not providing his driver's license. § 87(2)(b) stated that he also asked PO Sidorskiy to explain the reason for the car stop, and PO Sidorskiy said to him, "We can do this at the bookings or in jail." § 87(2)(b) was surprised to hear such response and said to PO Sidorskiy, "Excuse me?" PO Sidorskiy again said to § 87(2)(b) "I am not going to repeat myself. We can do this in the bookings or in jail." PO Sidorskiy then asked § 87(2)(b) several times to provide his driver's license. § 87(2)(b) told PO Sidorskiy that his driver's license was in the backpack in the trunk of the car and asked if he could retrieve it. PO Sidorskiy said to § 87(2)(b) several times, "Do you want to do this in the bookings or in jail?"

§ 87(2)(b), § 87(2)(g)  
PO Sidorskiy told § 87(2)(b) something to the effect, "We can do this either a hard way or go to the bookings." § 87(2)(b) did not make any statements regarding PO Sidorskiy threatening to arrest § 87(2)(b) or telling § 87(2)(b) that he could be arrested for not providing his driver's license.

This part of the incident was not captured on video.

PO Sidorskiy (BR 08) acknowledged that after the initial car stop, § 87(2)(b) and § 87(2)(b) exited their vehicle, that he ordered them to get back inside, and he asked § 87(2)(b) to provide his driver's license. § 87(2)(b) did not return in the vehicle and said to PO Sidorskiy, "Not today buddy." PO Sidorskiy asked § 87(2)(b) approximately five or six times to get back in the vehicle and to provide his driver's license. § 87(2)(b) did not comply with any of PO Sidorskiy's requests and told PO Sidorskiy that his driver's license was somewhere in the vehicle. PO Sidorskiy then informed § 87(2)(b) that he could be arrested for refusing to provide his driver's license. PO Sidorskiy denied saying to § 87(2)(b) or § 87(2)(b) at any point during this incident, "We can do this at the bookings or in jail," or, "Do you want to do this at the bookings or in jail?"

PO Cavallo (BR 09) § 87(2)(g) but did not hear PO Sidorskiy tell § 87(2)(b) that he could be arrested for refusing to provide his driver's license, or say to § 87(2)(b) or to § 87(2)(b) "We can do this at the bookings or in jail," or, "Do you want to do this at the bookings or in jail?"

Under the New York Vehicle and Traffic Law §507(2) (BR 10), failure by a driver to exhibit a license valid for operation to a police officer shall be presumptive evidence that he is not duly licensed.

Under New York Vehicle and Traffic § 509 (BR 11), operating a vehicle without a driver's license is a misdemeanor punishable by a fine or imprisonment.

Patrol Guide Procedure 208-01 (BR 12), an officer may arrest a civilian if he has reasonable cause to believe that person has committed an offense.

It is undisputed that § 87(2)(b) did not comply with PO Sidorskiy's requests to provide his driver's license during their initial interaction, and that PO Sidorskiy informed § 87(2)(b) that he could be arrested as a result. § 87(2)(g)

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Police Officer Michael Sidorskiy searched the vehicle in which § 87(2)(b) was an occupant.**

It is undisputed that PO Sidorskiy searched § 87(2)(b) vehicle during this incident.

The investigation has established the following facts. After § 87(2)(b) (BR 02) told PO Sidorskiy that his driver's license was in the backpack in the trunk of the car, he then went to look for the driver's license in the trunk, but was unable to find it there. § 87(2)(b) then told PO Sidorskiy that his driver's license was in another backpack at the rear passenger seat. Without providing any explanation, PO Sidorskiy opened the rear passenger side door of § 87(2)(b) car, leaned inside, retrieved the backpack, and then handed it to § 87(2)(b). At no point § 87(2)(b) allowed PO Sidorskiy to enter his car. After § 87(2)(b) checked the backpack, he remembered that his driver's license was in the car's cupholder. He informed PO Sidorskiy of that and asked for his permission to retrieve the driver's license. PO Sidorskiy agreed. § 87(2)(b) then got in the car, took the driver's license, and handed it to PO Sidorskiy. PO Sidorskiy took the driver's license and returned to his police vehicle.

§ 87(2)(b), § 87(2)(g)



2018-10-29\_9-26-43.mp4

§ 87(2)(b), § 87(2)(g)

Though the video does not depict § 87(2)(b) looking for his driver's license in the backpack in the trunk of his car, it does show him closing the trunk. Between 00:01 and 00:37 minutes, PO Sidorskiy opens the rear passenger side door of § 87(2)(b) car, leans inside, and then retrieves a dark colored backpack. § 87(2)(b) who is not captured on video, says, "He did not even ask to search the car. Why is he in the car? He did not ask to search the car." Meanwhile, § 87(2)(b) closes the trunk of the car and walks over to PO Sidorskiy. PO Sidorskiy hands the backpack to § 87(2)(b). Owen then places the backpack onto the ground and proceeds to look inside of it, searching for the driver's license. Several seconds later, § 87(2)(b) closes the backpack and says something to PO Cavallo, but it is inaudible. § 87(2)(b) then walks over, opens the front driver side door, and leans inside the car disappearing from the camera's view. At 00:43 minutes, PO Sidorskiy says, "Okay, you got it. You got it." § 87(2)(b) then hands what appears to be his driver's license to PO Sidorskiy, and the officer walks away.

§ 87(2)(g)

Initially, PO Sidorskiy (BR 08) stated that he entered § 87(2)(b) car and found his driver's license, though he did not remember where in the car he entered or where he found the license. PO Sidorskiy explained that he entered § 87(2)(b) car because he feared for his and PO Cavallo's safety, and did not wish § 87(2)(b) to reach for "anything" or for "a gun." Later, PO Sidorskiy stated that he had no specific reason to believe that § 87(2)(b) had a weapon in the car, and stated that he feared for his safety due to "general safety concerns." PO Sidorskiy did not remember § 87(2)(b) opening or closing the trunk of the car during this incident, and a review of the video did not refresh his recollection of this. After watching the video, PO Sidorskiy said that § 87(2)(b) told

him that his driver's license was in the backpack somewhere in the rear of the car. PO Sidorskiy then retrieved the backpack and gave it to § 87(2)(b) PO Sidorskiy could not explain why he handed the backpack to § 87(2)(b) after expressing safety concerns, but said that he watched over § 87(2)(b) as he was searching his backpack. PO Sidorskiy also could not explain why he allowed § 87(2)(b) to enter the front passenger seat, but said that he did not fear for his safety at that moment, and added, "We got the driver's license. That is all I wanted from the beginning."

PO Cavallo (BR 09) acknowledged that § 87(2)(b) told PO Sidorskiy that his driver's license was in the backpack in the trunk of the car, and that § 87(2)(b) opened the trunk and checked the backpack. PO Cavallo did not have an independent recollection of PO Sidorskiy entering § 87(2)(b) car, and after reviewing the video said that it must have happened. PO Sidorskiy never expressed any safety concerns to PO Cavallo, nor did PO Cavallo have such concerns of his own at any point during this incident.

When after a lawful car stop, an officer obtains information that leads to the conclusion that a weapon location within the vehicle presents an actual and specific danger to the officer's safety, it is sufficient to justify a further intrusion into that vehicle, notwithstanding that occupant's inability to gain immediate access to the weapon. People v. Ortiz, 25 Misc. 3d 1234(A) (BR 13), citing People v. Torres, 74 N.Y.2d 224 (1989) (BR 14) and People v. Mundo, 99 N.Y. 2d 55 (2002) (BR 15).

§ 87(2)(b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is § 87(2)(b)'s first CCRB complaint (BR 16).
- § 87(2)(b) has been party to one prior CCRB complaint and has been a victim in two allegations (BR 17):
  - § 87(2)(b)
- PO Michael Sidorskiy has been a member-of-service for 16 years and has been a subject in 19 CCRB complaints and 46 allegations, none of which were substantiated. § 87(2)(g)
  - 201804023 is pending investigation and involves allegations of vehicle stop, vehicle search, and frisk and search of a person.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) rejected mediation, thus no mediation was offered to § 87(2)(b)
- As of October 30, 2018, no Notice of Claim has been filed regarding this incident (BR 18).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 19).

- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 20).

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Squad No.: 4

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date